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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,291	11/19/2001	Michael J. Rothman	47004.000180	8456

21967 7590 10/20/2004

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EXAMINER

AKERS, GEOFFREY R

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/988,291

Applicant(s)ROTHMAN ET AL. *ST***Examiner**

Geoffrey Akers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-61,63-75,77-87,89-97 and 99-131 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 59-61,63-75,77-87,89-97 and 99-131 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/31/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Request for Continued Examination(RCE)

1. This action is issued in reply to applicant's Request for Continued Examination filed 8/10/04.
2. New claims 119-131 were added.
3. Claims 59-61,63-75,77-87,89-97,99-131 are pending.

Double Patenting

4. Claims 59-61,63-75,77-87,89-97,99-131 are rejected under double patenting as they conflict with claims 1-58 of US Patent No: 6,505,168 to Rothman dated 1/7/03. Although not identical, the claims are sufficiently similar to cause a conflict for patentability.

Claim Rejections - 35 USC § 103

5. Claims 59-61,63-75,77-87,89-97,99-131 are rejected under Deaton(US Pat. No: 6,424,949) in view of Day(US Pat. No: 6,484,146).

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6. As per claims 59-61,63-75,77-87,89-97,99-131 Deaton teaches a computer system for storing and manipulating merchant level customer purchase information received from a plurality of sources including a terminal(Abstract)(Fig 2A)(Fig 4A-1/4)(Fig 14A)(Fig 15B)(Fig 26)(col 4 line 62-col 5 line 27) where the computer system has a storage device for storing customer purchase information(Abstract)(Fig 2B)(Fig 3) at the merchant level(Abstract)(Fig 2A)(Fig 4A-1/4)(Fig 14A)(Fig 15B)(Fig 26)(col 4 line 62-col 5 line 27) consisting of receiving customer purchase information(col 4 line 51-col 5 line 43) at the merchant level(Abstract)(Fig 2A)(Fig 26)(col 4 line 62-col 5 line 27).

In addition to that taught by Deaton, Day teaches collecting purchasing information concerning customers(Abstract) at the merchant level(Abstract)(col 5 line 44-col 6 line 56)(col 3 lines 19-40). Day further teaches a computer implemented apparatus consisting of a wide area network(Fig 1/18) and store processors (Fig 1/12) at retail outlets(Fig 1/14). Day further teaches that each computer includes a database containing customer account information and information about purchases made by customers(col 3 lines 25-40). Day teaches the system consists of a supervisory computer networked to the store level computers by a WAN as well as TCP/IP communications(col 3 lines 40-45).Day also teaches targeting parameters used by manufacturers in making offers(col 3 line 67-col 4 line 16). Day also teaches characterizing customers based on purchase history(col 4 lines 17-31) as well as parameters describing customers as loyal(col 4 line 24) and switchers(col 4 line 18).Day teaches a plurality of cards having machine readable information for associating the card with particular customers and customer account(col 4 lines 32-48) . Day teaches special offers that are restricted to quantity and limits(and consequent dollar limits)(col 6 lines 57-64).Day further teaches maintaining a running total of savings realized by a customer's purchases(col 17 lines 14-19).Day teaches targeted special offers((col 7 lines 20-col 8 line 30) as well as presenting repurchasing cycles determining special offers(col 8 lines 31-36).Day teaches automatically increasing the value of special offers(col 8 lines 65-66) and status of promotions in time(col 9 lines 15-36) and household activity data(dollar volumes)(col 11 lines 53-58) and quantity limitations(Figs 12-14)(col 14 lines 52-64).It would have been obvious to one skilled in the art at the

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time of the invention to combine Deaton in view of Day to teach the disclosure. The motivation to combine is to teach an e-commerce customer promotion system based on customer shopping histories for targeted marketing as enunciated by Day(col 3 lines 19-22).

Response to Arguments

7. Applicant's arguments are moot in view of the new grounds of rejection.

Conclusion

8. **THIS ACTION IS MADE NON-FINAL.**

9. Any questions concerning this communication should be addressed to the primary examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday through Friday at 703-306-5844. If attempts to contact the primary examiner are unsuccessful, the primary examiner's superior, Mrs. Wynn Coggins, SPE, may be telephoned at (703)-308-1344.

October 15,2004



10/15/04

**DR. GEOFFREY R. AKERS, P.E.
PRIMARY EXAMINER**